## REMARKS

**Status of the claims:**

With the above amendments, claims 1, 4, and 6-10 have been amended and claim 2 has been canceled. Claims 1 and 3-10 are pending and ready for further action on the merits. No new matter has been added by way of the above amendments. Claim 1 has been amended by incorporating the subject matter of claim 2, which the Examiner has acknowledged is allowable. All other amendments to the claims are simply for form. Reconsideration is respectfully requested in light of the following remarks.

**Drawing Objections**

The Examiner has objected to Figure 3 asserting that it is unclear because it is unknown what are the units for anti-fatigue activity. Applicants would like to draw the Examiner's attention to page 18, line 21 to page 19, line 6 wherein there is a description of the "4% weight-loaded swimming test", which relates to Figure 3. Because the units on the anti-fatigue activity is a ratio (i.e., swimming time of the experimental group/ swimming time of the control group) there are no units. Moreover, Applicants have amended Figure 3 to recite "swimming time of the experimental group swimming time of the control

group" along the y axis. Applicants believe that with the amendment to the figure, that the objection has been obviated.

Figures 4 and 5 have been objected to for the presence of asterisks (i.e., "*" and "**") and the presence of an "error bar" symbol. Applicants have amended figures 4 and 5 so that they no longer contain these symbols and the error bar. Accordingly, Applicants believe that the objection has been obviated. Withdrawal of the objection is warranted and respectfully requested.

**Specification Objections**

The Examiner has objected to the specification for reciting "recithin" asserting that it should recite "lecithin". Applicants have amended the specification to recite "lecithin". Applicants believe that with these amendments that the objection has been obviated. Withdrawal of the objection is warranted and respectfully requested.

**Claim Objections**

Claim 6 has been objected to for reciting an improper Markush group. Applicants have amended claim 6 to recite "wherein the grains and vegetables are selected from the group consisting of . . ." Applicants believe that with this amendment

that the objection has been obviated. Withdrawal of the objection is warranted and respectfully requested.

The Examiner has objected to claim 10 for reciting "recithin" asserting that it should recite "lecithin". Applicants have amended claim 10 accordingly. Withdrawal of the objection is respectfully requested.

Claim 9 has been objected to for reciting "injection". Applicants have followed the Examiner's suggestion and amended claim 9 to recite "solution for injection".

Further, the Examiner has suggested adding "a" before "solution" and before "concentrated solution". Applicants have followed the Examiner's suggestion and amended claim 9 accordingly. Withdrawal of the objection is respectfully requested.

**Rejections under 35 USC §112, second paragraph**

Claims 1, 7, 8, and 9 are rejected under 35 USC §112, second paragraph as being indefinite. Claim 1 is rejected for reciting "the mixed powder" without antecedent basis. Applicants have amended claim 1 to recite "a mixed powder". It is believe that with this amendment that the rejection has been obviated. Withdrawal of the rejection is respectfully requested.

Claim 7 has been rejected for reciting an "ordinary amount of vitamins" and an "ordinary amount of amino acids" because the Examiner asserts that it is unknown what is meant by "ordinary". Applicants have omitted the language "ordinary amount of" before both "vitamins" and "amino acids". Applicants believe that with this amendment that the rejection has been obviated. Withdrawal of the rejection is respectfully requested.

Claim 8 has been rejected for reciting "food engineeringly". Claim 8 has been amended to recite "carriers acceptable for foods or pharmaceuticals". Applicants believe that with this amendment that the rejection has been obviated. Withdrawal of the rejection is respectfully requested.

Claim 9 has been rejected for reciting "essence". Applicants submit that this is an art-recognized term. Attached, please find a page from Grant and Hackh's Chemical dictionary wherein "essence" is defined as "the active principle of a plant". Accordingly, those of skill in the art will definitely recognize what is meant by "essence". Withdrawal of the rejection is warranted and respectfully requested.

**Rejections under 35 USC §103**

Claims 1, 2, 5, 8, and 9 are rejected under 35 USC §103(a) as being unpatentable over Sha '624 (US 2001/0055624 A1) or Sha '776 (US Patent No. 6,280,776) in view of Castleman (Castleman,

M. The Healing Herbs, 1991, Rodale Press, Emmaus, PA, pp. 193-194) in view of Lust (Lust, J. The Herb Book, 1974, Bantum Books, New York, NY, p. 207) and further in view of Ericsson '241 (US Patent No. 5,773,241).

Claims 3, 4, 6, and 10 are rejected under 35 USC §103(a) as being unpatentable over Sha '624 or Sha '776 in view of Castleman in view of Lust in view of Ericsson '241 and further in view of Hastings '424 (US Patent No. 5,567,424).

Claim 7 is rejected under 35 USC §103(a) as being unpatentable over Sha '624 or Sha '776 in view of Castleman in view of Lust in view of Ericsson '241 in view of Hastings '424 and further in view of Brown (Brown, T. Tom Brown's Guide to Wild Edible and Medicinal Plants, 1985, The Berkley Publishing Group, New York, NY, p. 32).

The Examiner has indicated that the species elected in claims 2, 4, and 6 are free of the art. Because claim 1 has been amended to incorporate the subject matter of claim 2 that the Examiner has acknowledged is allowable, it is believed that claim 1 and all claims dependent from claim 1 (i.e., all the remaining claims) are now allowable.

Accordingly, with the above remarks and amendments, it is believed that the claims, as they now stand, define patentable subject matter such that a passage of the instant invention to

allowance is warranted. A Notice to that effect is earnestly solicited.

If any questions remain regarding the above matters, please contact Applicant's representative, Andrew D. Meikle, in the Washington metropolitan area at the phone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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By _____

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Attachments

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**IN THE WRITTEN DESCRIPTION:**

The paragraph beginning at page 4, line 11 has been rewritten as follows:

--The present composition can be formulated into conventional dosage forms in food engineering or pharmaceutical field, such as powder, granules, tablets, capsules, solution, suspension, solution for injection, jam, syrup, essence, or concentrated solution, by additionally including one or more food engineeringly or pharmaceutically acceptable carriers. The formulations can be administered via conventional routes in pharmaceutical field, such as orally or parenterally, for example, by injection or transdermal absorption. Wild ginseng powder or water extract thereof may be administered within a range of conventional dosage of ginseng.

The line beginning at page 5, line 48 has been rewritten as follows:

--Lecithin 20 mg--

The line beginning at page 7, line 36 has been rewritten as follows:

--Lecithin 2.0%--

The line beginning at page 10, line 12 has been rewritten as follows:

--Lecithin 2.0%--

**IN THE CLAIMS**:

Claim 2 has been canceled.

The claims have been amended as follows:

1. (Amended) An anti-fatigue and nutritious tonic agent containing [powder of wild ginseng,] a water extract of a mixed powder of wild ginseng, with Lycii Fructus, Cnidii Rhizoma and Angelicae gigantis radix as the active ingredient.

4. (Amended) The agent according to Claim 3, wherein the vitamins or analogues thereof are selected from the group consisting of vitamin A, vitamin $B_1$ and acid addition salts thereof, vitamin $B_2$, vitamin $B_6$, vitamin $B_{12}$ and acid addition salts thereof, vitamin C, vitamin D, vitamin E, choline, nicotinic amide, pantothenic acid and salts thereof, folic acid, taurine, biotin, inositol, [recithin] lecithin, DHA powder, fructo-oligosaccharide, casein phosphopeptide, galacto-oligosaccharide, glucosamine, foremilk protein powder, skim milk, magnesium hydroxide and ionic calcium, and mixtures thereof.

6. (Amended) The agent according to Claim 3, wherein the grains and [or] vegetables are selected from the group consisting of glutinous rice, unpolished rice, Job's-tear, barley, soy bean, pumpkin and mung bean, and mixtures thereof.

7. (Amended) The agent according to Claim 3, containing 5-100 parts by weight of wild ginseng, 100 parts by weight or less of the herb medicine, [an ordinary amount of] vitamins, [an ordinary amount of] amino acids, and 200 parts by weight or less of grains and vegetables.

8. (Amended) The agent according to Claim 1, further comprising one or more carriers acceptable for foods [engineeringly] or [pharmaceutically acceptable carriers] pharmaceuticals.

9. (Amended) The agent according to Claim 8, which is formulated into powder, granules, tablets, capsules, a solution, suspension, solution for injection, jam, syrup, essence or a concentrated solution.

10. (Amended) The agent according to claim 3, further comprising one or more members selected from the group consisting of taurine, inositol, [recithin] lecithin, DHA

powder, fructo-oligosaccharide, casein phosphopeptide, galacto-oligosaccharide, glucosamine, foremilk protein powder, skim milk, magnesium hydroxide, and ionic calcium.